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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,809	06/07/2001	Jay Warren Gardner		1206

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EXAMINER

LIEU, JULIE BICHNGOC

ART UNIT	PAPER NUMBER
2632	

DATE MAILED: 01/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/877,809	GARDNER, JAY WARREN
	Examiner	Art Unit
	Julie Lieu	2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 June 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,6-11,14,15 and 23 is/are rejected.
- 7) Claim(s) 3-5,12,13 and 16-22 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 6, 9, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Peddie et al. (US Patent No. 4,471,232) (cited by the applicant).

Claim 1:

Peddie et al. discloses an electric power monitoring system comprising :

- a. A source monitor 32 for measuring momentary power output of an electric source supplying electric power to a power distribution system having at least one electric load 12, 13, 14
- b. Means for comparing the momentary power output with the reference load capability for the electric source to determine the ability of the electric source to support additional load, and for transmitting load capability data based on the load capability (col. 6, lines 29-40); and

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c. At least one load control 40 for receiving the transmitted load capability data and controlling the supply of power to the at least one corresponding electric load based on the load capability data.

Claim 2:

The reference load capability is determined based on at least one of a reference surge load and a reference continuous load.

Claim 6:

The at least one load control comprises an interrupt switch 41 for interrupting the supply of power to the electric load when the transmitted load capability is less than a predetermined level.

Claim 9:

The interrupt switch further monitors electric power levels drawn by the at least one electric load and interrupts the supply of power to the electric load when the transmitted load capability is less than the monitored power levels of the at least one electric load.

Claim 23:

Peddie et al. determines the load capability based on reduced power conditions.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 7-8, 10-11, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peddie et al. (US Patent No. 4,471,232) (cited by the applicant).

Claim 7:

It is not clear whether the interrupt switch 41 in Peddie interrupts the supply of power for an interrupt time period upon the return of power following a power failure condition. However, it would have been obvious to one skilled in the art since the timer times for a duration before reconnecting the load to the power supply, it would do the same when the power fails, that is, the load is disconnected because there is not enough power capacity. Col. 9, second paragraph.

Claim 8:

Though not clearly suggested by Peddie, it would have been obvious to one skilled in the art the interrupt time is set to delay the return of power for a period of time for the purpose of reducing the total sudden load on the main power source at initial power return because heavy load on the main power is not desirable.

Claims 10-11:

The interrupt switch 41 delays interruption of the supply of power to the load for a predetermined period of time. It is not stated in the reference that the switch delays the interruption of the load until it has finished its operation. However, it would have been obvious to one of ordinary skill in the art to wait for a device cycle is complete before shutting it off because this would prevent irregular operation of the device when the power returns.

Claims 14-15:

Peddie fails to disclose a user interface. However, the use of an interface to indicate to a user of the system condition is conventional in the art. It would have been obvious to one skilled in the art to incorporate an operator interface in the system of Peddie because it allows user to monitor the system condition and status so that corrective action can be taken if necessary.

Allowable Subject Matter

6. Claims 3, 4, 5, 12 13, and 16-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 703-308-6738. The examiner can normally be reached on Mon-Thursday, 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 703-308-6730. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Julie Lieu, Primary Examiner


Julie Lieu
Primary Examiner
Art Unit 2632

jl
January 12, 2003